

CERTIFIED FOR PUBLICATION  
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

SEGUIN MARTI PACHECO,

Defendant and Appellant.

H034454

(Santa Clara County  
Super.Ct.No. CC812286)

ORDER MODIFYING OPINION

CHANGE IN JUDGMENT

THE COURT:

It is hereby ordered that the opinion filed August 31, 2010, be modified as follows:

At the top of page 2 please delete the last sentence of the first full paragraph beginning with “Finding merit . . .” with the following sentence:

“Finding merit in Pacheco’s claims, we reverse in part and affirm in part, modifying the judgment and remanding to the trial court with directions.”

On pages 11 and 12 in the first paragraph under the subheading “VII. Conclusion” please replace the second sentence starting with “Particularly in light . . .” with the following sentence:

“Particularly in light of the ongoing monthly probation supervision fee, rather than strike the erroneous fines or fees out of considerations of judicial economy, we will instead reverse the judgment in part and remand with directions for the superior court to follow the law and impose these fees, consistently with the applicable statutes, only on the required determination of Pacheco’s ability to pay them.”

And replace the fifth sentence starting with “Likewise . . .” with the following sentence:

“We will also modify the judgment to reflect that the \$20 court security fee is deleted as a condition of probation and is instead a separate order.”

On page 12 under the heading “Disposition” please delete that paragraph and replace it with the following:

“The judgment is reversed as to the \$100 attorney fee order, the \$259.50 criminal justice administration fee, and the \$64 per month probation supervision fee. The matter is remanded with directions to the trial court to determine, in accordance with the applicable statutes, Pacheco’s ability to pay any such fines or fees before imposing them. If any order directing payment of attorney fees or imposing probation supervision fees is entered on remand, the order will make clear that these items are not conditions of probation. The judgment is further modified to delete the \$20 court security fee imposed as a condition of probation and to clarify that this fee is a separate order, and to delete the \$30 fee that the trial court did not impose. The clerk of the superior court is further directed to correct the minutes to delete this fee. The judgment is accordingly reversed in part and affirmed in part, as so modified.”

There is a change in the judgment.

Dated:

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Duffy, J.

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Rushing, P.J.

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Premo, J.